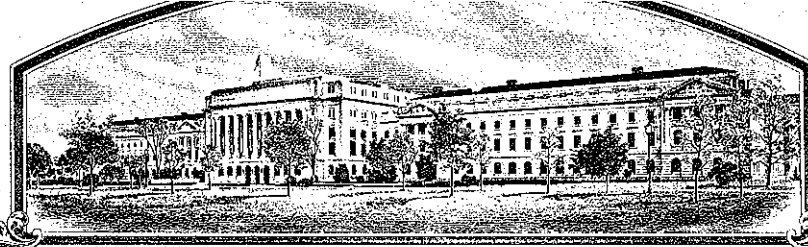


No.



7900067

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Keystone Seed Co., Inc.

Whereas, THERE HAS BEEN PRESENTED TO THE
Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED NOVEL VARIETY OF SEXUALLY REPRODUCED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF *seventeen* YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT (U.S.C. 542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

LETTUCE

'Commander'



In Testimony Whereof, I have hereunto set
my hand and caused the seal of the Plant
Variety Protection Office to be affixed
at the City of Washington
this 26th day of July in
the year of our Lord one thousand nine
hundred and seventy-nine

Attest:

Samuel H. Kern
Commissioner
Plant Variety Protection Office
Grain Division
Agricultural Marketing Service

Robert B. Berry
Secretary of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
LIVESTOCK, POULTRY, GRAIN & SEED DIVISION

FORM APPROVED
OMB NO. 40-R3822

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

INSTRUCTIONS: See Reverse.

No certificate for plant variety protection may be issued unless a completed application form has been received (5 U.S.C. 553).

1a. TEMPORARY DESIGNATION OF VARIETY		1b. VARIETY NAME Commander		FOR OFFICIAL USE ONLY PV NUMBER 7900067	
2. KIND NAME Lettuce		3. GENUS AND SPECIES NAME Lactuca sativa		FILING DATE 3-28-79	TIME 3:50 A.M. P.M.
4. FAMILY NAME (BOTANICAL) Compositae		5. DATE OF DETERMINATION June, 1974		FEE RECEIVED \$ 500.00 \$ 250.00	DATE 3-28-79 7-5-79
6. NAME OF APPLICANT(S) Keystone Seed Co., Inc.		7. ADDRESS (Street and No. or R.F.D. No., City, State, and ZIP Code) P.O. Box 1438 Hollister, CA 95023		8. TELEPHONE AREA CODE AND NUMBER (408) 637-5781	
9. IF THE NAMED APPLICANT IS NOT A PERSON, FORM OF ORGANIZATION: (Corporation, partnership, association, etc.) Corporation			10. IF INCORPORATED, GIVE STATE AND DATE OF INCORPORATION California		11. DATE OF INCORPORATION 11/23/55

12. NAME AND MAILING ADDRESS OF APPLICANT REPRESENTATIVE(S), IF ANY, TO SERVE IN THIS APPLICATION AND RECEIVE ALL PAPERS:

A. E. Braun Keystone Seed Co., Inc. P.O. Box 1438, Hollister, CA 95023

13. CHECK BOX BELOW FOR EACH ATTACHMENT SUBMITTED:

- ☒ 13A. Exhibit A, Origin and Breeding History of the Variety (See Section 52 of the Plant Variety Protection Act.)
- ☒ 13B. Exhibit B, Novelty Statement.
- ☒ 13C. Exhibit C, Objective Description of the Variety (Request form from Plant Variety Protection Office.)
- ☒ 13D. Exhibit D, Additional Description of the Variety.

14a. DOES THE APPLICANT(S) SPECIFY THAT SEED OF THIS VARIETY BE SOLD BY VARIETY NAME ONLY AS A CLASS OF CERTIFIED SEED? (See Section 83(a). (If "Yes," answer 14B and 14C below.) ☐ YES ☒ NO

14b. DOES THE APPLICANT(S) SPECIFY THAT THIS VARIETY BE LIMITED AS TO NUMBER OF GENERATIONS? ☐ YES ☒ NO

14c. IF "YES," TO 14B, HOW MANY GENERATIONS OF PRODUCTION BEYOND BREEDER SEED? ☐ FOUNDATION ☐ REGISTERED ☐ CERTIFIED

15a. DID THE APPLICANT(S) FILE FOR PROTECTION OF THIS VARIETY IN OTHER COUNTRIES? ☐ YES ☒ NO (If "Yes," give name of countries and dates.)

15b. HAVE RIGHTS BEEN GRANTED THIS VARIETY IN OTHER COUNTRIES? ☐ YES ☒ NO (If "Yes," give name of countries and dates.)

16. DOES THE APPLICANT(S) AGREE TO THE PUBLICATION OF HIS/HER (THEIR) NAME(S) AND ADDRESS IN THE OFFICIAL JOURNAL? ☒ YES ☐ NO

17. The applicant(s) declare(s) that a viable sample of basic seed of this variety will be furnished with the application and will be replenished upon request in accordance with such regulations as may be applicable.

The undersigned applicant(s) is (are) the owner(s) of this sexually reproduced novel plant variety, and believe(s) that the variety is distinct, uniform, and stable as required in Section 41, and is entitled to protection under the provisions of Section 42 of the Plant Variety Act.

Applicant(s) is (are) informed that false representation herein can jeopardize protection and result in penalties.

Mar. 21, 1979

(DATE)

James W. Chaney

(SIGNATURE OF APPLICANT)

1

(DATE)

(SIGNATURE OF APPLICANT)

EXHIBIT A

Origin and Breeding History of Lettuce "Commander"

- 1.) Pedigree of breeding line that became Commander is MR12B6-2Q1M. Experimental testing designator was Exp. #0971.
- 2.) Commander originated from a hand pollinated cross between a randomly selected single plant from the variety Calmar and a randomly selected single plant from the variety Climax; ie: Calmar x Climax. The cross was made in 1966.
- 3.) Using a randomly selected single plant from Climax (84) each time as female, six backcrosses were made onto single plants that were segregants identified or resistant to downy mildew, race 5, by inoculation with the organism. (BC6). (Pedigree MR12B6).
- 4.) The backcross number 6 (BC6) was carried into the F2 as two individual singles randomly selected from an inoculated population for resistance in 1969 (MR12B6-1 & 2). This inoculation and screening in the BC6 was necessary due to imperfect emasculation in making the cross, Climax (84) x BC5, which allows some selfing of Climax 84 to occur.
- 5.) In the F2 of BC6, 19 single plant selections were made from single number 2 above. (MR12B6-2A to S). This was done randomly on the basis of resistance to downy mildew, race 5, by inoculation of the plants with organism. (BC6-S2 generation)
- 6.) Each of the single plant selections in 5 above were progeny tested in El Centro, California during the winter 1971 - 1972 with 1/2 of the seed of each being retained.
- 7.) The remnant seed of each of the good performers in 6 above was sown in 1972 and each plant resulting was screened for downy mildew resistance by inoculation with the organism. 10 single plants were selected from this screening (MR12B6-2Q1 to 10) (BC6-S3 generation).
- 8.) Seed harvested from each single plant in 7 above was sown in 1973, screened for resistance to downy mildew, race 5 and out of the resistant segregants 20 were saved as single plant selections (MR12B6-2Q1A to T) (BC6-S4 generation).
- 9.) Each single in 8 above was progeny tested in the spring 1974 at Hollister, California with 1/2 of the seed of each being retained. In this progeny test, the single carrying the pedigree MR12B6-2Q1M was selected as a distinct line, superior to either parent and worthy of increase.
- 10.) The remnant seed of MR12B6-2Q1M was used to make a small increase in 1975. Trial plantings, in 1976 in Hollister, California made from seed from this increase indicated this item worthy of naming and introducing.
- 11.) In 1977 a foundation seed increase was made from the seed made in 10 above.
- 12.) Trial plantings were made throughout the western lettuce areas, coastal, inland and desert throughout their respective seasons during 1978 from the foundation seed made in 11 above. In these trials, MR12B6-2Q1M was identified as Keystone Experimental #0971.

- 13.) The trials in 12 above prove this item to be distinct, widely adapted, potentially useful and worthy of introduction. It was officially named "Commander" in February 1979.
- 14.) Due to parentage of the variety, rouging of a taller, darker, semi cos type may be required. Frequency of this off type is approximately one plant in 2500.
- 15.) Trials in 1978 of the lot representing two mass increase indicate this line is true breeding and homogenous at the BC6-S4 generation.

Data Indicative of Novelty

Novelty is based on the unique combination of the following characters:

"Commander" most closely resembles "Climax" except that (1) it is resistant to Downy Mildew race 5, (2) it matures 3 to 5 days earlier in the Arizona desert area (3) maturity is more even.

Climax is adapted to fall, winter and early spring maturity in desert like production areas, but even under these conditions it does not mature as evenly nor head down well at all times. In the spring and summer in the California coastal areas, Climax does not produce firm heads. Commander performs well in these seasons and in both desert and coastal areas. Heads are firm and maturity is more even.

Calmar is resistant to downy mildew, race 5. It is adapted to California coastal conditions and performs best when maturing in the spring and early summer. Difficulty is experienced in "heading down" or making well shaped, solid heads during the summer months or warm periods. Calmar does not perform well in the fall, winter or early spring in the California interior or other desert-like production areas.

Commander performs better than Calmar throughout the coastal area season by being more sure-heading, equally resistant to downy mildew race 5. Maturity is the same, but heads are slightly larger in equatorial diameter and slightly less in polar diameter.

Commander performs better than Climax in the desert-like areas in the fall, winter and early spring by being resistant to downy mildew race 5. It averages 3 to 5 days earlier in maturity. It is more sure heading and more uniform in maturity. Frame size is slightly less than Climax and heads slightly smaller.

Commander demonstrates adaptability to all major western production areas in their normal season as neither parent is adapted as broadly. In maturity studies in Yuma, Arizona at 110 days after planting, the percent mature heads of Commander was 62 as compared to 44 for Climax. The standard deviations were 6.1 and 8.3 respectively. Difference is highly significant and demonstrates earliness and uniformity for Commander.

In the Hollister, California area the percent mature heads of Commander was 71 and compared to 68 for Climax. The standard deviations were 7.2 and 8.4 respectively. Difference is significant at the 95% level.

OBJECTIVE DESCRIPTION OF VARIETY
(LETTUCE)

INSTRUCTIONS: See reverse.

NAME OF APPLICANT(S)

Keystone Seed Co., Inc.

ADDRESS (Street and No. or R.F.D. No., City, State, and ZIP Code)

P.O. Box 1438
Hollister, CA 95023

FOR OFFICIAL USE ONLY

PVPO NUMBER

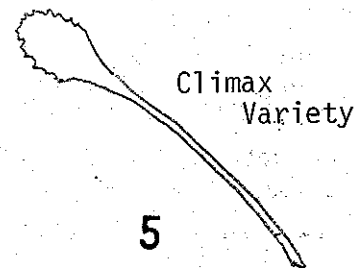
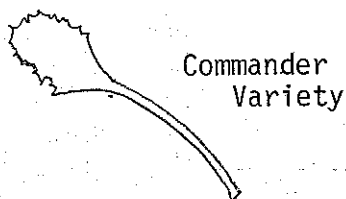
7900067

VARIETY NAME OR TEMPORARY DESIGNATION

Commander

Place the appropriate number that describes the varietal character of this variety in the boxes below.

1. PLANT TYPE: <input type="text" value="4"/> <input type="text" value="2"/> 10 = CUTTING (Leaf) 20 = STALK 50 = BUTTERHEAD 60 = LATIN 70 = OTHER (Specify) _____		30 = COS 31 = SELF-CLOSING GROUP 32 = LOOSE-CLOSING GROUP	40 = CRISPHEAD 41 = IMPERIAL GROUP 42 = GREAT LAKES GROUP 43 = VANGUARD 44 = NEW YORK GROUP								
2. SEED COLOR: <input type="text" value="2"/> 1 = WHITE 2 = BLACK 3 = YELLOW		3. ANTHOCYANIN: <input type="text" value="1"/> 1 = ABSENT 2 = PRESENT									
4. LEAF CONTAINING ANTHOCYANIN: <input type="text" value="4"/> 1 = COVERED 2 = SPOTTED 3 = ALONG MARGIN 4 = ABSENT 5 = OTHER (Specify) _____											
5. LEAF SURFACE TEXTURE: <input type="text" value="2"/> 1 = SMOOTH 2 = BLISTERED		6. LEAF SURFACE REFLECTANCE: <input type="text" value="1"/> 1 = DULL 2 = GLOSSY 3 = OTHER (Specify) _____									
7. LEAF MARGIN: <input type="text" value="2"/> 1 = STRAIGHT 2 = WAVY 3 = CURLED		<input type="text" value="3"/> 1 = ENTIRE 2 = DENTATE 3 = INCISED 4 = DEEPLY INCISED 5 = OTHER (Specify) _____									
8. LEAF SHAPE: <input type="text" value="1"/> 1 = ROUNDED 2 = POINTED		<input type="text" value="1"/> 1 = BROADER THAN LONG 2 = LONGER THAN BROAD 3 = OTHER (Specify) _____									
9. LEAF COLOR: (See reverse.) <input type="text" value="5"/> 1 = RED 2 = REDDISH-BROWN 3 = YELLOW 4 = YELLOWISH-GREEN 5 = GREYISH-GREEN 6 = BLUE-GREEN 7 = DARK-GREEN 8 = VERY DARK GREEN											
10. HEADS: <input type="text" value="2"/> 1 = SPHERICAL 2 = FLATTENED 3 = ELONGATE 4 = POINTED 5 = NON-HEADING		11. PLANT SIZE: (See reverse.) <input type="text" value="3"/> 1 = SMALL 2 = MEDIUM 3 = LARGE									
12. CULTURE: <input type="text" value="3"/> 1 = SUMMER CROP 2 = WINTER CROP 3 = NOT SPECIFIC 4 = UNDER GLASS 5 = OTHER (Specify) _____											
13. SIZE OF 10-DAY OLD SEEDLING GROWN UNDER CONSTANT LIGHT (Growth Chamber) AT 25° C.: (Place a zero in first box (i.e. 0121) when size is 9 mm. or less.) <input type="text" value="6"/> <input type="text" value="6"/> mm. LENGTH OF SEEDLING <input type="text" value="2"/> <input type="text" value="3"/> mm. LENGTH OF COTYLEDON <input type="text" value="0"/> <input type="text" value="4"/> mm. WIDTH OF COTYLEDON											
14. DISEASE RESISTANCE TO: (Enter zeroes in box(es) where there is no special disease resistance.) <table border="0"> <tr> <td><input type="text" value="1"/> 1 = TIPBURN</td> <td><input type="text" value="0"/> 2 = MOSAIC</td> <td><input type="text" value="0"/> 3 = DAMPING OFF</td> <td><input type="text" value="4"/> 4 = DOWNY MILDEW</td> </tr> <tr> <td><input type="text" value="0"/> 5 = SCLEROTINIA ROT</td> <td><input type="text" value="0"/> 6 = BROWN BLIGHT</td> <td><input type="text" value="0"/> 7 = BIG VEIN</td> <td><input type="text" value="0"/> 8 = OTHER (Specify) _____</td> </tr> </table>				<input type="text" value="1"/> 1 = TIPBURN	<input type="text" value="0"/> 2 = MOSAIC	<input type="text" value="0"/> 3 = DAMPING OFF	<input type="text" value="4"/> 4 = DOWNY MILDEW	<input type="text" value="0"/> 5 = SCLEROTINIA ROT	<input type="text" value="0"/> 6 = BROWN BLIGHT	<input type="text" value="0"/> 7 = BIG VEIN	<input type="text" value="0"/> 8 = OTHER (Specify) _____
<input type="text" value="1"/> 1 = TIPBURN	<input type="text" value="0"/> 2 = MOSAIC	<input type="text" value="0"/> 3 = DAMPING OFF	<input type="text" value="4"/> 4 = DOWNY MILDEW								
<input type="text" value="0"/> 5 = SCLEROTINIA ROT	<input type="text" value="0"/> 6 = BROWN BLIGHT	<input type="text" value="0"/> 7 = BIG VEIN	<input type="text" value="0"/> 8 = OTHER (Specify) _____								
15. OUTLINE THE FOURTH LEAF: (For standardization purposes, the fourth leaf should be taken from a 20-day old plant grown under constant light.)											



FORM GR-470-1 (REVERSE)

16. INDICATE WHICH VARIETY MOST CLOSELY RESEMBLES THAT SUBMITTED:

CHARACTER		NAME OF VARIETY				
Leaf color		Calmar				
Leaf pigmentation		Calmar				
Leaf shape		Calmar				
Plant size		Calmar				
Head size		Climax				

VARIETY	NO. OF DAYS TO HEAD MATURITY UNDER WINTER CROPPING	LOCATION	NO. OF DAYS TO HEAD MATURITY UNDER SUMMER CROPPING	LOCATION	NO. OF DAYS TO SEED STALK EMERGENCE UNDER SUMMER CROPPING	LOCATION
Submitted	109	Yuma, Az	88	Hollister, CA	Non Bolting	
Similar	114	"	88	"	Non Bolting	
Name of similar variety	Climax		Calmar		Calmar	

INSTRUCTIONS

GENERAL: The following publications may be used as a reference aid for completing this form:

1. C. M. Rodenburg, 1960, Varieties of Lettuce, An International Monograph, Instituut voor de Veredeling van Tuinbouwgewassen, Wageningen, Holland.
2. L. L. Morse, 1930, Field Notes on Lettuce, published by Ferry-Morse Seed Co.

LEAF COLOR: Nickerson's or any recognized color fan may be used to determine the leaf color of the described variety. The following lettuce varieties may be used as a guide to identify the eight colors listed on the form.

Color	Variety
Red	"Salad Trim"
Reddish-brown	"Ruby"
Yellow	"Salad Bowl"
Yellowish-green	"Oakleaf"
Greyish-green	"White Boston"
Bluish-green	"Bibb"
Dark-green	"Imperial" group
Very dark green	"Deer Tongue"

PLANT SIZE: The following varieties may be used as a guide to identify the plant type size:

TYPE	COMPARABLE VARIETIES		
	SMALL	MEDIUM	LARGE
Cutting (leaf)	Boston-Curled	Prize Head	Grand Rapids
Stalk (stem)	Celtuce	--	--
Cos	Express	Parris Island	Giant White
Crisphead	Mignonette	Hanson (Merit)	Climax
Butterhead	Tom Thumb	Big Boston	Mammoth Butter
Latin	Sucrino	Creole	Deer Tongue

EXHIBIT D

Botanical Description of the Variety

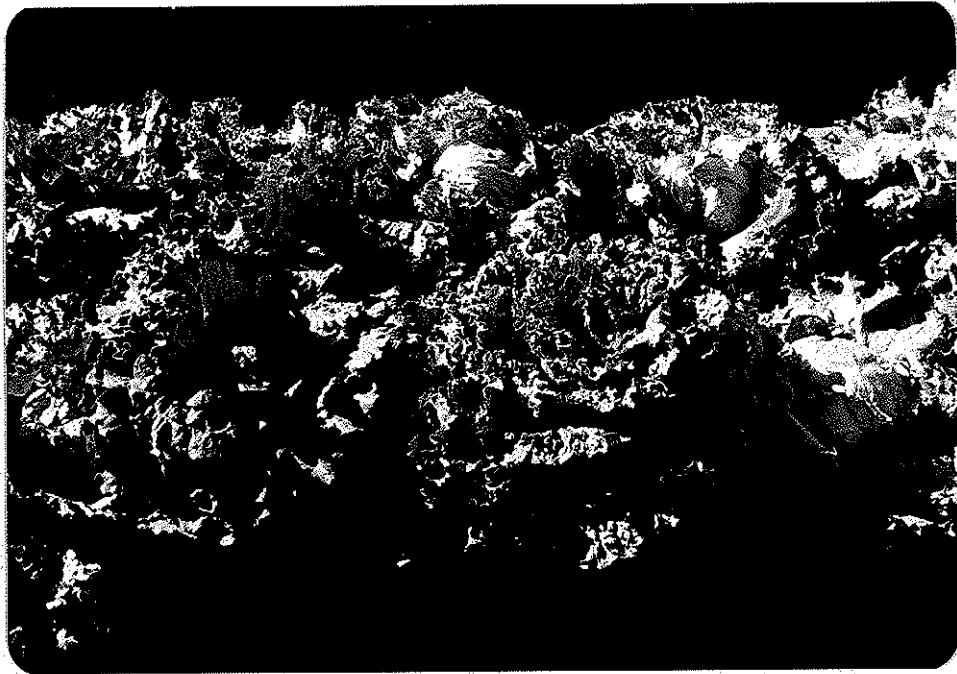
Seed Color is black. Seedling, heading, and flowering stages are normal and typical of Great Lakes group. Leaf surface texture is blistered and reflectance is rather dull. Leaf margins are wavy, slightly incised with serrated edges. The leaves are glabrous, sessile and entire. The leaves are rounded and slightly wider than long. Mature leaves of Commander average 23 cm. in width and 19 cm. in length. Climax leaves are slightly larger; width averages 25 cm. and length 23 cm. Outer leaves of Commander are deepest green color at margin and grade to yellow green at base. Leaf color of Commander near margin approximates plate 23, H-6 while Climax is slightly darker and approximates plate 23, J-8 of the Maerz and Paul Index.

Head of Commander is more symmetrical, wrapper leaves more erect, and cap leaf more prominent. On mature heads, the stem at the butt is smaller and mid-ribs of the leaf are less pronounced than in climax.

Core is rounded to triangular on both varieties. Core length of trimmed head averages 2 cm. for Commander and 1.4 cm. for Climax.

Heads of Commander have typical Great Lakes texture.

7900067



Off types in Commander

Left: Typical natural variant found in Commander. Also typical in Climax.

Right: Off type head but not prominent in Commander.

7900067



Left: Climax Right: Commander
Mature heads, showing smaller diameter of stem of Commander, less prominence
of leaf ribs, and broader and flatter butts.

7900067



Left of center: Commander. Right: Climax
Both varieties planted on same date. Commander appears lighter due to earlier maturity.

7900067

Pictures showing Commander and Climax at Yuma, Arizona January 1979



Left: Climax Right: Commander

Head of Commander is more symmetrical, wrapper leaves are more erect, with a more prominent cap leaf and larger flag.

PLANT VARIETY PROTECTION CERTIFICATE

ASSIGNMENT

The Sunseeds Division of Agrigenetics Corporation, a Delaware corporation having a place of business at 3575 Mitchell Lane, Boulder, Colorado 80301 ("Agrigenetics"), represents that it is the owner of the entire right, title and interest in and to the plant variety protection certificates and applications for plant variety protection certificates shown below.

For good and valuable consideration, receipt of which is hereby acknowledged, Agrigenetics hereby assigns to UF Genetics, Inc., a Delaware corporation having a place of business at 9800 Fairview Road, Hollister, California 95024, Agrigenetics' entire right, title and interest in and to the following plant variety protection certificates and applications therefore, together with all Agrigenetics' rights to the sexually reproduced plants that are the subject of such certificates and applications:

I. Registered Certificates

<u>Title</u>	<u>Certificate Number</u>	<u>Date</u>
Empress	7900045	4/15/82
9014	Ap8100174	9/28/81
9293	Ap8100175	9/28/81
9400	Ap8200007	10/22/81
Paymaster	7600058	12/7/77
Lakeland	7600059	1/26/78
Triumph	7600061	12/30/77
Broker's Choice	8100175	4/28/83
Profit Maker	8100174	4/28/83
Shannon	8200007	4/28/83
Sunrise	7100029	6/24/74
Lake Shasta	7100030	8/12/74
Lake Erie	7100031	8/12/74
Rebel	7100033	9/30/74
Lake Superior	7100034	5/21/74
Miami	7100036	2/28/74
Lake Geneva	7200068	5/21/74
Scanion	7300001	11/15/74
Picoverde	7300016	4/10/73
Raider	7400069	7/26/74

Lake Largo	7400104	9/30/74
Lake Seneca	7500096	11/24/75
Chaparral	7600052	5/16/77
Costaverde	7600053	8/24/77
Gustoverde	7600054	8/24/77
Mesaverde	7600055	5/31/77
Conquest	7700058	7/26/77
Commander	7900067	7/26/79
Keygold	8000111	10/16/80
Snapbean, Exp. 163	7600058	12/7/77
Snapbean, Exp. 195	7600059	1/6/78
'Green Genes' Bean	7600060	12/7/77
Snapbean, Exp. 116-0	7600061	12/30/77
Mikado (AVX 450)	Ap8400037	12/30/83
Mystro	8500064	4/16/85

II. Pending Certificate Applications

<u>Title</u>	<u>Application Number</u>	<u>Filing Date</u>
Cajun Queen	Pending	--
Mendota	Pending	--
Sunset	Pending	--
Alpine	Pending	--
Polaris	Pending	--

AGRIGENETICS CORPORATION

By: Murray Polunin
 Title: Executive Vice President

COMMONWEALTH OF MASSACHUSETTS)

County of Suffolk)

On this 30th day of April, 1986, before me appeared Murray Thompson, the person who signed this instrument, who acknowledged that he signed it as a free act on behalf of Agrigenetics Corporation.

Susan J. Thibault
Notary Public

My Commission Expires: 1/31/87

7900067

O'MELVENY & MYERS

400 SOUTH HOPE STREET
LOS ANGELES, CALIFORNIA 90071-2899
TELEPHONE (213) 669-6000
FACSIMILE (213) 669-6407

EMBARCADERO CENTER WEST
275 BATTERY STREET
SAN FRANCISCO, CALIFORNIA 94111-3305
TELEPHONE (415) 984-8700
FACSIMILE (415) 984-8701

1999 AVENUE OF THE STARS
LOS ANGELES, CALIFORNIA 90067-6035
TELEPHONE (310) 553-6700
FACSIMILE (310) 246-6779

610 NEWPORT CENTER DRIVE
NEWPORT BEACH, CALIFORNIA 92660-6429
TELEPHONE (714) 760-9600
FACSIMILE (714) 669-6994

555 13TH STREET, N.W.
WASHINGTON, D. C. 20004-1109

TELEPHONE (202) 383-5300
TELEX 89622 • FACSIMILE (202) 383-5414

March
16th
1995

CITICORP CENTER
153 EAST 53RD STREET
NEW YORK, NEW YORK 10022-4611
TELEPHONE (212) 326-2000
FACSIMILE (212) 326-2061

ONE GATEWAY CENTER
NEWARK, NEW JERSEY 07102
TELEPHONE (201) 639-8600
FACSIMILE (201) 639-8630 • 639-8631

10 FINSBURY SQUARE
LONDON EC2A 1LA
TELEPHONE (0171) 256-8451
FACSIMILE (0171) 638-8205

SANBANCHO KB-6 BUILDING
6 SANBANCHO, CHIYODA-KU
TOKYO 102
TELEPHONE (03) 3239-2800
FACSIMILE (03) 3239-2432

1104 LIPPO TOWER
LIPPO CENTRE
89 QUEENSWAY, CENTRAL
HONG KONG
TELEPHONE (852) 523-8266
FACSIMILE (852) 522-1760

WRITER'S DIRECT DIAL NUMBER

(202) 383-5350

VIA FEDERAL EXPRESS

Plant Variety Protection Office
U.S. Department of Agriculture
NAL Building, Room 500
10301 Baltimore Boulevard
Beltsville, Maryland 20705-2351

Attn: Ms. Ann K. Zempolich

Re: Assignment of Plant Variety Protection Certificates
Owned by Sunseeds Company to Internationale
Nederlanden (U.S.) Capital Corporation, as agent for
the Lenders party to the Amended and Restated Credit
Agreement Referred to Below

OUR FILE NUMBER
410,894-14
DC1-211237.V1

Dear Ladies and Gentlemen:

Enclosed please find an originally executed copy of each of (i) the Amended and Restated Security Agreement (the "Security Agreement") dated as of March 14, 1995 by and between Sunseeds Company, a Delaware corporation (formerly known as Sunseeds Acquisition Corporation) ("Sunseeds"), and Internationale Nederlanden (U.S.) Capital Corporation, a Delaware corporation ("ING"), as agent for the Lenders party to the Amended and Restated Credit Agreement referred to below (in such capacity, the "Agent") and (ii) the Amended and Restated Plant Variety Certificates Collateral Assignment (the "Assignment") dated as of March 14, 1995 by and among Lehman Commercial Paper Inc., a New York corporation ("Lehman"), ING, as Agent, and Sunseeds. The Security Agreement and Assignment are provided for recordation of the assignment to ING, as Agent, of the 26 plant variety protection certificates ("PVPCs") listed in Schedule I of the Assignment in accordance with 7 U.S.C. § 2531 and 7 C.F.R. § 97.130.

The PVPCs subject to the Assignment were assigned to Lehman, as agent for the lenders party to that certain Credit Agreement (the "Original Credit Agreement") dated as of March 31, 1994 by and among Sunseeds, Sunseed Corporation, a Delaware corporation (the Co-Borrower), Lehman, as agent, and the lenders

listed therein, pursuant to that certain Plant Variety Certificates Collateral Assignment (the "Original Assignment") dated as of March 31, 1994 by and between Sunseeds and Lehman, as agent for such lenders. The Original Credit Agreement was amended and restated pursuant to that certain Amended and Restated Credit Agreement dated as of March 14, 1995 by and among Sunseeds, the Co-Borrower, the Lenders, ING, as Agent, and Lehman, to provide for, among other things, the resignation of Lehman as agent and the appointment of ING as successor agent thereto. In connection therewith, the Security Agreement and the Assignment were entered into to amend and restate that certain Security Agreement dated as of March 31, 1994 by and between Sunseeds and Lehman, as agent for the lenders party to the Original Credit Agreement, and the Original Assignment and to reflect the appointment of ING as Agent.

From my telephone conversations with Ms. Ann K. Zempolich and Dr. Kenneth H. Evans of your office, it is my understanding that you will file a copy of this entire cover letter and a copy of Schedule I in the folder of each PVPC listed in Schedule I by placing the copies immediately behind each PVPC in order to notify anyone examining these PVPCs of ING's interest, as agent, in them and refer the examiner to the Security Agreement and Assignment filed in the Assignment Drawers of the Plant Variety Protection Office. Please take this action and any other steps necessary and appropriate to record the assignment in compliance with 7 U.S.C. § 2531 and 7 C.F.R. § 97.130.

To acknowledge your receipt of this letter, the Security Agreement and Assignment, please sign the enclosed copy of this letter on the designated signature line and return the signed copy to me in the enclosed prepaid Federal Express envelope. Thank you for your assistance.

Sincerely,



Ellen Waldorf
for O'MELVENY & MYERS

EW/pt
Enclosure

SCHEDULE I

PVPCs

COLLATERAL ASSIGNMENT - PLANT VARIETY PROTECTION CERTIFICATES

PV#	Crop Kind	Name of Variety	Certificate Issue Date	Expiration Date
8100077	Tomato	Castlong ug	11/26/82	11/26/2000
8100078	Tomato	Castlerock	11/26/82	11/26/2000
8200139	Tomato	Castle Red	11/26/82	11/26/2000
7900076	Onion	Colossal	10/18/79	10/18/1996
7900086	Onion	New Mexico White Grano PRR	10/18/79	10/18/1996
7900117	Onion	New Mexico Yellow Grano PRR	01/29/80	01/29/1997
8000039	Onion	Red Sunset	07/31/80	07/31/1997
8000040	Onion	Blanco Duro	07/31/80	07/31/1997
8000041	Onion	Brooks PRR	07/31/80	07/31/1997
8000159	Onion	Texspan PRR	06/11/81	06/11/1999
8000161	Onion	Early Grand PRR	07/30/81	07/30/1999
8100128	Onion	Glory	04/28/83	04/28/2001
8100129	Onion	Paradise	04/28/83	04/28/2001
8100130	Onion	Regal	04/28/83	04/28/2001
8100166	Onion	Sweet Winter	11/26/82	11/26/2000
8300083	Onion	Crystal Wax Pickling	12/30/83	12/30/2001
9100045	Tomato	Sun 6095	01/31/92	01/31/2010
7600052	Lettuce	Chaparral	05/16/77	05/16/1994
7600053	Lettuce	Costaverde	08/24/77	08/24/1994
7600054	Lettuce	Gustaverde	08/24/77	08/24/1994
7600055	Lettuce	Mesaverde	05/31/77	05/31/1994
7900067	Lettuce	Commander	07/26/79	07/26/1996
8500064	Tomato	Mystro	09/30/87	09/30/2005
8700194	Tomato	Sun 1643	11/29/91	11/29/2009
8800057	Pepper	Prima Belle	09/30/88	09/30/2006
8300168	Okra	Cajun Queen	09/27/85	09/27/2003

Each of the above-referenced Plant Variety Protection Certificates are owned by Sunseeds Company (formerly known as Sunseeds Acquisition Corporation), a Delaware corporation.



United States
Department of
Agriculture

Agricultural
Research
Service

Northern Plains Area
National Seed
Storage Laboratory

1111 South Mason Street
Fort Collins, CO 80521-4500
Telephone: 970 495-3200
Fax: 970 221-1427

February 14, 1997

Marian R. Minnifield, Secretary
Plant Variety Protection Office
NAL Building, Room 500
10301 Baltimore Boulevard
Beltsville, Maryland 20705-2351

Subject: Expired PVPO's; disposition of

1. The following expired PVPO's have been transferred to the NPGS. Our records have been changed accordingly.

<u>Serial Number</u>		<u>PVP Number</u>
101862	01	PVP 7800029
102219	01	PVP 7800010
102675	01	PVP 7800088
102676	01	PVP 7400011
103506	01	PVP 7800084
103507	01	PVP 7900016
103508	01	PVP 7800082
103840	01	PVP 7900017
103842	01	PVP 7900067
104549	01	PVP 7700106
104551	01	PVP 7100046
314988	01	PVP 9500276
101863	01	PVP 7800026
102222	01	PVP 7800078
102226	01	PVP 7800091
101854	01	PVP 7200134
102214	01	PVP 7605014
102216	01	PVP 7900011
102217	01	PVP 7800095
102218	01	PVP 7800093
102220	01	PVP 7800097
102221	01	PVP 7800042

97 FEB 25 1997

USD



United States
Department of
Agriculture

Agricultural
Research
Service

Northern Plains Area
National Seed
Storage Laboratory

1111 South Mason Street
Fort Collins, CO 80521-4500
Telephone: 970 495-3200
Fax: 970 221-1427

102673	01	PVP 7800059
103502	01	PVP 7800096
103503	01	PVP 7800074
103509	01	PVP 7900044
103510	01	PVP 7900047
103838	01	PVP 7500042
103843	01	PVP 7300101
101859	01	PVP 7200132
102227	01	PVP 7700085
103511	02	PVP 7800028
103839	01	PVP 7900049
103845	01	PVP 7900048
104548	02	PVP 7800057
104550	01	PVP 7800024

97 FEB 25 1997

USD

Sincerely,

GENE KEYS
Data Coordinator



From Technology To Life

P.O. Box 1438, 2320 Technology Parkway, Building 11 Suite A, Hollister, CA 95024-1438 USA 408/636-9505 TWX 910-3720254

June 7, 1988

Kenneth H. Evans, Commissioner
Plant Variety Protection Office
National Agriculture
Library Building, Room 500
Beltsville, MD 20705

Re: Change of Assignment.

Dear Mr. Evans:

This letter is in reference to your correspondence to me, dated July 14, 1987. I wish to make it clear that this change of assignment is to indicate a name change only, from U.F. Genetics, Inc. to Sunseeds Genetics, Inc.

Also, in reference to 'Mystro' tomato, have Item 1 read Sunseeds Genetics, Inc. and issue the certificate to Sunseeds Genetics, Inc.

Enclosed please find a check in the amount of \$170.00 to cover the cost of changing the certificates.

Title	Certificate No.	Date
Empress	7900045	4/15/82
9014	Ap8100174	9/28/81
9293	Ap8100175	9/28/81
9400	Ap8200007	10/22/81
Paymaster	7600058	12/7/77
Lakeland	7600059	1/26/78
Triumph	7600061	12/30/77
Broker's Choice	8100175	4/28/83
Profit Maker	8100174	4/28/83
Shannon	8200007	4/28/83
Sunrise	7100029	6/24/74
Lake Shasta	7100030	8/12/74
Lake Erie	7100031	8/12/74
Rebel	7100033	9/30/74
Lake Superior	7100034	5/21/74

SUNSEEDS

June 7, 1988
Kenneth H. Evans
Page 2

Title	Certificate No.	Date
Miami	7100036	2/28/74
Lake Geneva	7200068	5/21/74
Scanion	7300001	11/15/74
Picoverde	7300016	4/10/73
Raider	7400069	7/26/74
Lake Largo	7400104	9/30/74
Lake Seneca	7500096	11/24/75
Chaparral	7600052	5/16/77
Costaverde	7600053	8/24/77
Gustoverde	7600054	8/24/77
Mesaverde	7600055	5/32/77
Conquest	7700058	7/26/77
Commander	7900067	7/26/79
Keygold	8000111	10/16/80
Snapbean, Exp. 163	7600058	12/7/77
Snapbean, Exp. 195	7600059	1/6/78
'Green Genes' Bean	7600060	12/7/77
Snapbean, Exp. 116-0	7600061	12/30/77
Mikado (AVX 450)	Ap8400037	12/30/83

Sincerely,



Gene Hookstra
Vice President, Research

GH/mo

enc: Check
Copy of Correspondence from K.H. Evans

1 Agreement (the "Agreement"), a copy of which is attached hereto as
2 "Exhibit A" and is incorporated herein by this reference. Under
3 the terms of the Agreement, Sunseeds granted to Security Pacific,
4 as Agent for Banks, a security interest in any and all right,
5 title, and interest in, to, and under all Certificates of Plant
6 Variety Protection granted to Sunseeds and/or any of its
7 predecessors in interest, subsidiaries, and/or divisions,
8 including, but not limited to, the following Certificates of Plant
9 Variety Protection, copies of which are attached hereto as "Exhibit
10 B":

<u>Certificate</u> <u>Number</u>	<u>Date Issued</u>	<u>Grantee</u>	<u>V a r i e t y</u> <u>Protected</u>
8800057	9-30-88	S u n s e e d s Genetics, Inc.	"Prima Belle" Pepper
8500064	9-30-87	S u n s e e d s Genetics, Inc.	" M y s t r o " Tomato
8300168	9-27-85	Sunseeds, A Division of Agrigenetics	"Cajun Queen" Okra
7900067	7-26-79	Keystone Seed Co., Inc.	"Commander" Lettuce
7600053	8-24-77	Keystone Seed Company	"Costaverde" Lettuce
7600055	5-31-77	Keystone Seed Company	"Mesaverde" Lettuce
7600052	5-16-77	Keystone Seed Company	"Chaparral" Lettuce
7300001	11-15-74	Keystone Seed Company	" S c a n i o n " Onion

7300016

4-10-73

Keystone Seed
Company

"Picoverde"
Lettuce

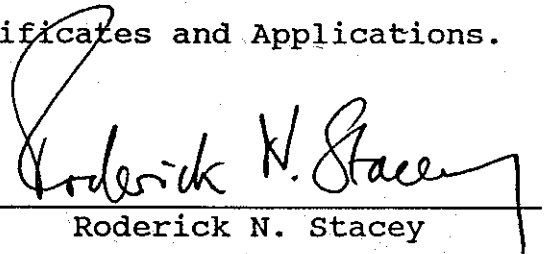
6. In addition, under the terms of the Supplementary Security Agreement, Sunseeds has granted to Agent, on behalf of Banks, a security interest in any and all right, title, and interest in, to, and under all of Sunseeds' Applications for Plant Variety Protection currently pending with the United States Department of Agriculture, Plant Variety Protection Office, including, but not limited to, the following Applications, copies of which are attached hereto as "Exhibit C":

Application

<u>Number</u>	<u>Filing Date</u>	<u>Applicant</u>	<u>Variety</u>
8900171	4-18-89	Sunseeds Genetics, Inc.	"White Diamond" Cauliflower
8700194	8-24-87	Sunseeds Genetics, Inc.	"Sunex 1643" Tomato

6. This Affidavit is to evidence the transfer of a security interest only, and does not reflect the transfer of any other interest in the above-referenced Certificates and Applications.

Dated: December 15, 1989.


Roderick N. Stacey

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1. I am the President and Chief Executive Officer of Sunseeds Genetics, Inc. ("Sunseeds"), a corporation organized and existing pursuant to the laws of the state of Delaware, and having its principal place of business in Hollister, California. I am authorized to make this affidavit on behalf of Sunseeds.

3. Sunseeds has acquired by merger or purchase all of the Certificates of Plant Variety Protection listed in Paragraph number five (5) of this affidavit.

5. As of August 3, 1989, Sunseeds and Security Pacific as Agent for the Banks, entered into a Supplementary Security

7900067

PLANT VARIETY PROTECTION ASSIGNMENT

THIS PLANT VARIETY PROTECTION ASSIGNMENT ("Assignment") is made and entered into as of this ____ day of _____, 1994, ("Effective Date"), by and between Sunseeds Ltd., L.P., a Delaware limited partnership, ("Assignor"), and Sunseeds Company (formerly Sunseeds Acquisition Corporation), a Delaware corporation, ("Assignee").

WHEREAS, pursuant to a certain Asset Purchase Agreement dated March 7, 1994, Assignor has agreed to sell to Assignee substantially all of Assignor's assets used in the Assignor's business, including the United States Plant Variety Protection Certificates set forth on Schedule A attached hereto (the "PVP Certificates") and the foreign plant variety registrations set forth on Schedule B attached hereto (the "Foreign Registrations").

WHEREAS, Assignor is the sole and exclusive owner of the entire right, title and interest in, to and under the PVP Certificates and Foreign Registrations; and

WHEREAS, Assignee wishes to acquire and Assignor wishes to assign all right, title and interest in and to the PVP Certificates and Foreign Registrations.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby sell, assign, transfer and set over to Assignee, the entire right, title and interest in and to the PVP Certificates and Foreign Registrations, for the United States and for any foreign country, for its own use and enjoyment, and for

the use and enjoyment of its successors, assigns or other legal representatives, as fully and entirely as the same would have been held and enjoyed by Assignor if this Assignment and sale had not been made; together with all claims for damages by reason of past, present or future infringement or other unauthorized use of the plants protected by the PVP Certificates and Foreign Registrations, with the right to sue for, and collect the same for its own use and enjoyment, and for the use and enjoyment of its successors, assigns, or other legal representatives.

Assignor authorizes and requests the Department of Agriculture to record Assignee as owner of the PVP Certificates and assignee of the entire right, title and interest in, to and under the same, for the sole use and enjoyment of Assignee, its successors, assigns or other legal representatives.

Assignor authorizes and requests the Ministero Per Il Coordinamento Delle Politiche Alimentare Gest. Prod. Agricole and any other organization, department or agency with jurisdiction over registration of plant varieties to record Assignee as owner of the Foreign Registrations and assignee of the entire right, title and interest in, to and under the same, for the sole use and enjoyment of Assignee, its successors, assigns or other legal representatives.

Assignor shall provide Assignee, its successors, assigns or other legal representatives, reasonable cooperation and assistance at Assignee's request (such as the execution and

delivery of any and all affidavits, declarations, oaths, exhibits, assignments, powers of attorney or other documentation as may be reasonably required) in the implementation or perfection of this Assignment.

* * * * *

IN TESTIMONY WHEREOF, the undersigned has caused this Assignment to be signed and executed this 31st day March, 1994.

Sunseeds Ltd., L.P.

By: Gerald M. Pack

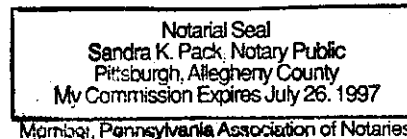
Name: Gerald M. Pack

Title: President/CEO

STATE OF Pennsylvania
COUNTY OF Allegheny } SS.

On this 31st day of March, 1994, there appeared before me Gerald M. Pack, personally known to me to be the same person whose name is subscribed to the foregoing Assignment and who acknowledged that he signed the foregoing Assignment as his voluntary act and deed for the use and purpose therein set forth.

Sandra K. Pack
Notary Public



Assignment

Schedule A

PLANT VARIETY PROTECTION CERTIFICATES

<u>Current Record Owner</u>	<u>PV#</u>	<u>Crop Kind</u>	<u>Name of Variety</u>	<u>Cert. Issue Date</u>	<u>Expiration Date</u>
A.L. Castle, Inc.	8100077	Tomato	Castlong ug	11/26/82	11/26/2000
	8100078	Tomato	Castlerock	11/26/82	11/26/2000
	8200139	Tomato	Castle Red	11/26/82	11/26/2000
ARCO Seed Co.	7900076	Onion	Colossal	10/18/79	10/18/96
	7900086	Onion	New Mexico White Grano PRR	10/18/79	10/18/96
	7900117	Onion	New Mexico Yellow Grano PRR	1/29/80	1/29/97
	8000039	Onion	Red Sunset	7/31/80	7/31/97
	8000040	Onion	Blanco Duro	7/31/80	7/31/97
	8000041	Onion	Brooks PRR	7/31/80	7/31/97
	8000159	Onion	Texspan PRR	6/11/81	6/11/99
	8000161	Onion	Early Grand PRR	7/30/81	7/30/99
	8100128	Onion	Glory	4/28/83	4/28/2001
	8100129	Onion	Paradise	4/28/83	4/28/2001
	8100130	Onion	Regal	4/28/83	4/28/2001
	8100166	Onion	Sweet Winter	11/26/82	11/26/2000
	8300083	Onion	Crystal Wax Pickling	12/30/83	12/30/2001
	8100001	Triticale	Jenkins	2/15/84	
	8200032	Triticale	Grace	11/15/81	
	8100150	Celery	Grande	1/13/83	
Sunseeds, Div. of Westseeds, Inc.	9100045	Tomato	Sun 6095	1/31/92	1/31/2010
Sunseeds Genetics, Inc.	7600052	Lettuce	Chaparral	5/16/77	5/16/94
	7600053	Lettuce	Costaverde	8/24/77	8/24/94
	7600054	Lettuce	Gustaverde	8/24/77	8/24/94
	7600055	Lettuce	Mesaverde	5/31/77	5/31/94
	7900067	Lettuce	Commander	7/26/79	7/26/96
	8500064	Tomato	Mystro	9/30/87	9/30/2005
	8700194	Tomato	Sun 1643	11/29/91	11/29/2009
	8900171	Cauliflower	White Diamond	4/18/89	
	8800057	Pepper	Prima Belle	9/30/88	9/30/2006
UF Genetics, Inc.	8300168	Okra	Cajun Queen	9/27/85	9/27/2003